## REMARKS

### RESTRICTION REQUIREMENT

Restriction is required under 35 U.S.C. 121 and 372, as the application is asserted to contain the following inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

Group I, claim(s) 1-15 and 22-29, drawn to a composition

Group II, claim(s) 16-21, drawn to a method of whitening tooth surfaces

### Election

In order to be responsive to the requirement for restriction, Applicant elects Group I, including claims 1-15 and 22-29, with traverse.

### Traverse

Notwithstanding the election of Group I in order to be responsive to the requirement for election, Applicant respectfully traverses the requirement for restriction.

Applicant notes that this application is a national stage application, and therefore under unity of invention practice the Examiner must establish that the claims lack unity of invention under PCT Rule 13.1 and 37 C.F.R. 1.475.

In particular, the Examiner is reminded that in determining unity of invention, the criteria set forth in 37 C.F.R. 1.475 must be considered. Specifically, Applicant notes that 37 C.F.R. 1.475 provides:

> Unity of invention before the International Searching Authority, the International Preliminary Examining Authority, and during the national stage.
>
> (a) An international and a national stage application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive

concept ("requirement of unity of invention"). Where a group of inventions is claimed in an application, the requirement of unity of invention shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

(b) An international or a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories:

(1) A product and a process specially adapted for the manufacture of said product; or

(2) A product and process of use of said product; or

(3) A product, a process specially adapted for the manufacture of the said product, and a use of the said product; or

(4) A process and an apparatus or means specifically designed for carrying out the said process; or

(5) A product, a process specially adapted for the manufacture of the said product, and an apparatus or means specifically designed for carrying out the said process.

(c) If an application contains claims to more or less than one of the combinations of categories of invention set forth in paragraph (b) of this section, unity of invention might not be present.

(d) If multiple products, processes of manufacture, or uses are claimed, the first invention of the category first mentioned in the claims of the application and the first recited invention of each of the other categories related thereto will be considered as the main invention in the claims, see PCT Article 17(3)(a) and § 1.476(c).

(e) The determination whether a group of inventions is so linked as to form a single general inventive concept shall be made without regard to whether the inventions are claimed in separate claims or as alternatives within a single claim.

Thus, in stating the restriction requirement, the requirement must state why unity of invention is lacking under 1.475. In the instant situation, the requirement does not refer to 1.475, and does not indicate that the requirement is proper in view of this rule. In this regard, the requirement does not state why unity is considered to be lacking when, as is the present situation, in accordance with 37 C.F.R. 1.475(b)(2), a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to a product and process of use of said product.

Additionally, the requirement alleges a lack of a special technical feature relating to the composition of Group I not being novel and references US 20020061282 A1. However, the requirement merely points to isolated portions of the disclosure of this document, and does not set forth any indication that Applicant's claimed subject matter is sufficiently envisaged in the document so as to constitute anticipation. In this regard, Applicant notes that a rejection has not been made based upon the asserted teachings within this document, and preserve their right to present arguments in the event that a rejection is made relative to the subject matter recited in Applicant's claims. In any event, the requirement must establish why unity of invention is lacking based upon reference to 37 C.F.R. 1.475, as discussed above.

In view of the foregoing, it is respectfully requested that the Examiner reconsider the requirement for restriction, and withdraw the same so as to give an examination on the merits on all of the claims pending in this application.

## CONCLUSION

For the reasons discussed above, it is respectfully submitted that the Examiner's requirement for restriction is improper and should be withdrawn.

Withdrawal of the requirement for restriction with the examination of all claims pending in this application is respectfully requested.

Favorable consideration with early allowance of the pending claims is most earnestly requested.

If the Examiner has any questions, or wishes to discuss this matter, please call the undersigned at the telephone number indicated below.

Respectfully submitted,
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September 17, 2009
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